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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

Plaintiff,

v.

LA PIANTA, LLC, dba
FRENCHMAN HILLS
VINEYARD, L.L.C.,

Defendant.

No. CV-09-303-RHW

MEMORANDUM IN SUPPORT OF
MOTION TO INTERVENE AS
PLAINTIFF UNDER FED. R. CIV. P.
24 (a) (1)

I. INTRODUCTION

1. Proposed Plaintiff-Intervenor Andrea Ramales moves this Court under Fed. R. Civ. P. 24(a) for leave to intervene in the above-captioned action as a party Plaintiff. This motion is brought in order to allow the aggrieved party to assert the claims set forth in the proposed Complaint in Intervention.

MEMORANDUM IN SUPPORT OF MOTION
TO INTERVENE AS PLAINTIFF UNDER
FED R. CIV. P. 24 (A) (1)

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II. STATEMENT OF FACTS

2.1 Proposed Plaintiff-Intervenor Andrea Ramales seeks leave of this Court to intervene pursuant to Fed. R. Civ. P. 24(a) in the above captioned action filed on her behalf by the Equal Employment Opportunity Commission (EEOC) and to file the attached Complaint in Intervention.

2.2 The EEOC is the federal agency charged by Congress with the interpretation, administration and enforcement of a number of federal statutes banning employment discrimination, including Title VII of the Civil Rights Act of 1964, 42 U.S.C § 2000e, et seq. (Title VII). In this capacity, the EEOC filed the complaint on September 30th, 2009 against the Defendant alleging unlawful employment practices in violation of §703(a) of Title VII, 42 U.S.C § 2000e-2(a), stemming from the charges of discrimination filed by the Plaintiff-Intervenor with the EEOC. This action is currently pending before this Court.

2.3 In this case, Plaintiff-Intervenor has claims of discrimination in violation of Title VII. Plaintiff-Intervenor also seeks to bring before this Court her state law claim for discrimination pursuant to the Washington Law Against Discrimination, RCW 49.60, that arises out of the same facts as the federal claims.

2.4 Plaintiff-Intervenor asks this Court to assert supplemental jurisdiction over her state claim because the state and federal claims share a common nucleus of operative facts. Moreover, this Court should assert jurisdiction over Plaintiff-Intervenor's state law claims because the evidence needed to resolve the state law claims substantially overlaps with the evidence relevant to the federal claims. *See United Mine Workers v. Gibbs*, 383 U.S. 715 (1966).

2.5 The EEOC complaint in this action was filed on or about September 30, 2009. The present procedural posture of the case is that no discovery has been propounded, and no trial date has been set. Thus, the Plaintiff-Intervenor believes, for the reasons outlined below, that intervention should be allowed.

II. ARGUMENT

A. Fed. R. Civ. P. 24(a) (1) GRANTS PLAINTIFF-INTERVENOR THE RIGHT TO INTERVENE BECAUSE FEDERAL STATUTE AFFORDS AN UNCONDITIONAL RIGHT.

Rule 24 of the Federal Rules of Civil Procedure provides, in relevant part:

(a) Intervention of Right. On timely motion, the court must permit anyone to intervene who: (1) is given an unconditional right to intervene by a federal statute...

1 Title VII provides an aggrieved employee with an absolute right to intervene in
2 a civil action brought by the EEOC. Title VII states:

3 ...[T]he person or persons aggrieved shall have the right to intervene
4 in a civil action brought by the Commission or the Attorney General
5 in a case involving a government, governmental agency, or political
subdivision...42 U.S.C. §2000e-5(f)(1)

6 Since the relevant statute confers an absolute right to intervene, Plaintiff-
7 Intervenor must therefore be allowed to intervene in this action as a matter of
8 right.

9
10 **B. PLAINTIFF-INTERVENOR'S REQUEST TO INTERVENE IS
TIMELY**

11 Rule 24 requires that the application to intervene be timely. The Court
12 considers the following factors in determining whether intervention is timely:
13 (1) the stage of the proceeding at which an applicant seeks to intervene, (2) the
14 prejudice to other parties, and (3) the reason for and length of the delay. *United*
15 *States v. State of Washington*, 86 F.3d. 1499, 1503 (9th Cir. 1996).
16

17 This motion is timely. This action was filed by the EEOC on September
18 30th, 2009. No discovery has been conducted. No trial date has been set. The
19 Defendant will not be prejudiced by the court granting Plaintiff-Intervenor
20 permission to intervene at this stage of the proceedings.
21
22

1 For these reasons, the Plaintiff-Intervenor's Motion to Intervene is timely
2 and has met the requirements for intervention as set forth in Fed. R. Civ. P.
3 24(a).

4 III. CONCLUSION

5 For these reasons, the Plaintiff-Intervenor respectfully requests that her
6 motion to intervene into the instant action be granted and that she be permitted
7 to file the attached Complaint in Intervention.
8

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10 DATED this 16th day of October, 2009.

11
12 NORTHWEST JUSTICE PROJECT
13
14

15 By: /s/ Blanca E. Rodriguez
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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of October, 2009, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

John F Stanley John.stanley@eeoc.gov

Carmen Flores Carmen.flores@eeoc.gov

William R. Tamayo William.tamayo@eeoc.gov

George M Ahrend gahrend@dgalaw.com

And hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: NONE

s/Alex Galarza
Alex Galarza, Legal Assistant